Supreme Court, U. S.
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IN THE

SUPREME COURT OF THE UNITED STATES

SEPTEMBER TERM 1979

No. 79-696

BETTY L. COUGHLIN,

Petitioner

vs. ALABAMA

Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ALABAMA, HEAD OF THE ALABAMA UNIFIED COURT SYSTEM

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Petitioner

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IN THE

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No.

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Petitioner,

vs.

STATE OF ALABAMA,

Respondent.

PETITION FOR A WRITE OF CERTIORARI

TO THE

SUPREME COURT OF ALABAMA

OPINIONS BELOW

The opinion of the Supreme Court of Alabama in denying Petitioners Petition for a Writ of Mandamus is reproduced as Appendix "A". Petitioner's Petition and cover letter is reporduced as Appendix "G". Petitioner's Petition for a Writ of Error Coram Nobis to the Birmingham Division of the Tenth Judical Circuit of Alabama and it's denial are reproduced as Appendix "B".

JURISDICTION

Petitioner invokes this Court's jurisdiction under Article III Section 2 (1) of the Federal Constitution.

QUESTIONS PRESENTED

Does any court have the right to establish a system of legal anarchy? Alabama has professed to have established a "unified court system", but, in actuality, the Birmingham Division of the Tenth Circuit is allowed to exist outside of all law and rule established in Alabama. Birmingham's BAR is under a different Code of ethics and the court is independent of the law of Alabama. To rectify an intolerable situation that exists in this state, the Supreme Court Alabama would grant, **only**, Petitioner a right that every citizen is entitled to while denying her that to which every citizen has a right. This is not just a question of money, though money is involved. No. this case realizes every fear that our fore fathers had when they framed the Constitution. Petitioner has been denied that which was given, in the Constitution, to stop such abuses by the government. The 1st Amendment grants every citizen the right to petition the Government "for a redress of frevances." It is the only say "the people" really have in their government. In this state, "We the People" has come to be corrupted into "we do as we please because we have the power". When the Supreme Court of Alabama denied Petitioner's petition in the manner they did, they, in effect, said to the world that all justice in this state had failed. What of the other people that have been done the same way? Alabama admits that they only give fair and speedy trials to those that can force the state to. If you say anything, we will let only you have what every one else has. But unless you can force us, we are going to deny you everything else. Even in evading Amendments 1, 4, 6, and 14 of the Constitution and trying to turn this into just a question of money, the courts of Alabama further showed their comtempt of the law by granting further privileges. Petitioner states again that no system of supervision is not a system. Alabama has passed into law sweeping reforms, but not only has she failed to implement these reforms, she has allowed new abuses that could not have stood under the old. Where else in the United States has one half of a county been allowed to exempt itself to all of general law? The Birmingham Division admittedly, totally ignores the very existance of court reporters, and, with that statement, it ignores the very principle of a fair and speedy trial and due process, as has been defined many times by this Court. Petitioner asks that the Court apply the 1st, 4th, 6th and the 14th Amendments of the Federal Constitution to Petitioner's cause.

Constitutional Provisions Involved

Admendments 1, 4, 6, and 14 of the Federal Constitution.

STATEMENT OF CASE

In 1966, Petitioner bought a residence in Forestdale, which lies in Jefferson County in the State of Alabama. Shortly after this, a concealed waterflow problem was discovered. Upon discovery, Petitioner sought to rectify this problem and acting in good faith and on authorized authority closed the illegal culvert. Shortly after this, Petitioner's neighbors sued her in Equity Court, with the help of the County, in Case No. 148-258. Petitioner's lawyer denied petitioner an appeal in this case and the culvert was opened, contrary to state law.

In October of 1970, the County, acting through it's own agent, one Edwin Strickland, sought and obtained a Temporary Restraining Order from said Equity Court. In so doing, the Court joined both the original case number 148-258 and the TRC case number 163-584 together. Thus the County was a party to the suit and was bound by the Courts desision, which was "not to interfer with the flow of the water." In the same Order, the Court took notice that the BAR was closed to Petitioner and appointed counsel for Petitioner, after refering the matter to the BAR and it's various committees.

On July 29, 1974, County Commissioner Tom Gloor caused Petitioners illegal arrest and prosecution. By admission in his deposition, Mr. Gloor took a civil matter and turned it into a criminal matter in order to teach Petitioner a lesson. There is no doubt that Mr. Gloor ordered the arrest or that he ordered the coviction. In Mr. Gloor's own words, "he brought the matter to it's logical conclusion because it had festered in the courthouse too long". During Petitioner's trial in district court, Petitioner was never formally charged with anything and stood trial without being charged. Both lawyers were incompetent and Miss Privett went so far as to change Petitioner's plea of "not guilty" to "guilty" over Petitioner's objections. Petitioner fired Miss Privette and was summarily sentenced and denied appeal by the trial judge, who later reconsidered and granted petitioner a trial

"de novo", which is a matter of right. Enclosed are copies of Petitioner's complaints to the BAR and the Head of the BAR of Alabama. As this Court will see, there is not much in Alabama that is considered unethical, immoral, or illegal by our courts or the BAR.

Petitioner was formally charged, on her trial "de novo", (failure to obey a police officer), 32-5-15 of the new 1975 Code of Alabama. Petitioner was convicted and directed her lawyer to appeal. Petitioner states to this Court that, had it not been for her tireless efforts, this appeal would not have been made and that Mr. Harris, the attorney for Petitioner, gave up the practice of law when the conviction was overturned, in September of 1975.

The Court of Criminal Appeals reversed Petitioner's conviction in September. The Court could find no grounds to uphold the conviction and so held in there opinion. Upon remandment, the case was "nolle prossed."

Petitioner instituted suit in state court for false arrest, false imprisonment, malicous prosecution, and use and abuse of process. Petitioner's first lawyer quit after filing the suit and refused to join the Sheriff. Next, Petitioner hired Mr. Austin, who stalled until he knew Petitioner was sick and in the hospital.

Then he tried to cause petitioner's case to be dismissed. As will be noted in Mr. Austin's letter, which is enclosed, when petitioner objected to her treatment, Mr. Austin quite and caused to have published the letters, which give no reasonable reason for him to withdraw. As was stated to Petitioner by Mr. Austin, "I could not practice another day if I did not play the game". Petitioner's lawyer could not represent Petitioner because the State of Alabama would not allow him to apply the Constitution or the law. Since Mr. Austin's letter made it impossible to secure (and since the BAR itself had refused to help Petitioner obtain) adequate counsel, stating that there is nothing that compells the state or BAR to see that everyone has representation in our courts. In fact the President of the Birmingham BAR denies that citizens have any rights, civilly, and that the 1st Amendment of the Constitution does not apply in civil cases. So, having exhausted the Birmingham BAR, Petitioner sought counsel, both out of state and out of this county, in all cases except one (the lawyers refused to come to Birmingham). There were many excuses, but the main one was that they did not want trouble with Jefferson County. As can be seen from Mr. Gloor's own deposition, in Jefferson County, there is no separation of power.

Shortly after Mr. Austin withdrew, Petitioner hired Mr. Kennedy, an out of county lawyer who assured Petitioner that he could withstand the pressure. Mr. Kennedy further assured Petitioner, bother before and after she signed the contract, that if there were constitutional errors made during the trial, he would appeal the decision. Later, Mr. Kennedy approached Petitioner with a series of questions and propositions that Petitioner can only describe as "would you believe", instead of doing his research or listening to Petitioner's research, he literally started making the arguments for the opposition. This continued until the trial itself and during said trial. Petitioner objected but the trial Judge himself went so far as to take a court order stating; "Done this day in open court", and explain to the jury that I did not know the difference between a courtroom and a judge's chamber, and further, that the order did not exist. Enclosed is a copy of said non-existant order, with the name of Edwin Strickland, County Attorney, who, during the trial, swore that he had no knowledge of any prior cases, and which statement the judge upheld and which, over Petitioners objections, Mr. Kennedy stipulated.

After the trial and after Mr. Kennedy had admitted there were constitutional errors, he refused to appeal or discuss it with Petitioner. This matter and obtaining a transcript were discusses. The trial judge stated that Mr. Kennedy's refusal to represent her at the Motion for New Trial was not detrimental to Petitioner's cause, but Petitioner disagrees. The judge also said that he would make provisions for the transcript but failed to do so when he denied the motion.

Petitioner filed Notice of Appeal and encountered problems from the onset. First, the Clerks Record was missing physical evidence that the state is required to keep by law. Two pieces of this evidence were court orders and official logs kept by the Sheriff, which was introduced but which Petitioner has never been allowed to examine and whose existance was denied until trial. Second, when Petitioner got in touch with the reporter, such demands and veiled threats were made that petitioner felt violated and sought out her Constitutional Rights and asserted those Rights in her Petition for a Writ of Error, filed December 19, 1978. All relief was denied and Petitioner appealed to the Supreme Court of Alabama on a Petition for Mandamus which was also denied. Petitioner now seeks a Petition for a Writ of Cer-

tiorari with this Court to rectify the injustice of the Unified Court System of Alabama.

On the afternoon of 8/8/78, Petitioner was told by her attorney to wait in the witne ss room until he came to get her and her family. Some hours later, when her lawyer failed to come, Petitioner went to investigate. In the courtroom, a conversation was taking place between the judges and defendants. The only ones absent were Petitioner, her lawyer and Sheriff Bailey. When Petitioner questioned the reported about the meeting, the reporter went back and informed the participants, and they immediately rushed out of the courtroom, past Petitioner, Petitioner stopped the reporter and asked her to report what had been said. The reporter refused, stating that she only took order from the judge. The next day, before trial, Petitioner objected to being excluded from the court's private meetings and the retranscribing of the evidence. Before noon recess, during testimony, Petitioner's lawyer made a demand for the court reporter in the amount of $750.00. Petitioner was to produce this money immediatly or said reporter would walk. Mr. Kennedy caused such a scene that Petitioner had to leave the court room to carry on business for Mr. Kennedy and, thereby, could not participate in the trial, which continued in Petitioner's absence.

Enclosed is a transcript of Petitioner's conversation with Mr. Kennedy during the noon recess. Also enclosed are sworn statements by Petitioner's son and husband. The facts in this case are; (1) the reporter admits she made these demands, (2) these demands were admitted to be unreasonable by Mr. Kennedy, (3) the reporter would have used the court to collect, (4) Mr. Kennedy used his contract to enforce these unreasonable demands, (5) the reporter demanded pay from petitioner but refused orders from Petitioner, (6) Petitioner did not hire the reporter, (7) Petitioner's lawyer did not hire the reporter, (8) defendants did not hire the reporter, (9) the court did not hire or have supervision of the reporter, (10) NO ONE HAD CONTROL OR SUPERVISION OF SAID REPORTER, (11) the court allows reporter the right to prejudice cases and place parties under duress to collect money which is not due them, (12) the price of transcripts rose before Petitioner filed her Writ of Error Coram Nobis, (13) after the writs were filed, prices were lowered until Petitioner, **alone**, was allowed a transcript at the same price

everyone else in Alabama (except Birmingham) pays, (14) and, in effect, offer to make reparation of the $600.00 the reporter defrauded Petitioner out of, during the trial.

When Petitioner requested a court reported of the trial judge she expected on official court reporter. Petitioner had a right to transcript and, under Alabama law, a transcript can only be made by an official court reporter. Rule 80 of the Alabama Rules of Civil Procedure deals with transcripts. The state courts have always ruled that this rule only applies to official court reporters. Further, it has always been held that secondary evidence is not admissable under this rule. **Accident & Indemnity Co.**, 119 F. 2d 721, 724 (5th Cir. 1941); **Jones V. State**, 174 Ala. 85, 57 So. 36 (1911).

The Best Evidence Rule applies to the evidence and it's preservation. Petitioner was and is entitled to the Best Evidence and was told that she would get that. Petitioner paid for but can never receive that which she paid for.

Petitioner feels that the court, lawyer, and reporter entered into a conspiracy to deny Petitioner a fair trial. It is obvious that the reporter is biased and has tried to mislead and suborn, at every step left to her own devices. Petitoner would distrust anything produced, bring that the only thing on the reporters mind during the trial was collecting her money. Petitioner doubts she would have had time to record the testimony that was being given. Yet, Petitioner is expected to pay top dollar, with no prospect of every recovering a penny of this money, for a product, which may never be delivered and, if it is delivered, it may be so inaccurate as to be worthless. If that being the case, how could Petitioner force the reporter to rehabilitate her worthless paper. Since the Birmingham Division has no system, there is no actual way to record, preserve, or reform the evidence in this division.

Petitioner applies the equity doctrine of "unclean hands" to this whole transaction. Petitioner is asked to trust a group that has repeatedly proved incapable of trust. How can an unreliable witness, as this reporter has proven to be, make a reliable record.

Petitioner contends that the lack of a system, now in effect in Birmingham, is in conflict with Alabama law for the following reasons. Rule 80 of the Alabama Rules of Civil Procedure states that the only admissible evidence, on appeal, is a transcript by an official court reporter acting in an official capacity. Further, Rule 83 of the Alabama Rules of Civil Procedure states that the lower

courts shall submit proposed local rules to the Supreme Court for approval. Not only is this practice of Birmingham not approved by the Court, it is inconsistent with the Rules of Civil Procedure.

ALABAMA LAW (Regular Session, 1975), Act No. 1205;

AN ACT

To implement the new Judicial Acticle of the Alabama Constitution (Amendment No. 328 approved December 18, 1973); by establishing a unified judicial system for the state; by — by providing that the state bear the cost of personnel and operation of the Circuit and District Courts; . . . .

Article 7. Court Personnel

7-110. Court Reporters.

(a) Transcript fees. Notwithstanding any statutes existing on the effective date of this Act which prescribe fees to be paid to the court reporters for producing transcripts of their stenographic notes, the amounts of these fees may be fixed and adjusted by the Supreme Court at such time as it shall determine.

Rule 40 of the Rules of Judicial Administration states;

Rule 40

Description of the Fees for Transcripts

(A) Pursuant to the authority and responsibility of Section 7-110 of Act No. 1205, Acts of Alabama, 1975 Regular Session, all court reporters shall be allowed a fee of $1.65 for the preparation of original impression only. . . .

Rule 22

Court Reporters and Other Court Personnel

(B) The Administrative Director of Courts (ADC) shall determine the need for court reporters for Circuit and District Court Judges — Court reporters may be certified by the ADC as necessary. . . .

Opinion of the Justices No. 229, 342 So. 2d 361, contrary to Respondents restatement, states clearly;

Pending bill providing for method of selecting of juries in criminal cases in a single county violated constitutional provision conferred upon the Supreme Court the authority to promulgate rules governing administration of all state courts. . . .

Code of Alabama Title 12-17-270 is in fact void upon its face because there is no county in Alabama, which Petitioner is aware of, that does not have at least three "commissioned judges" as of January 16, 1977. In effect, this statue applies to no one and is therefore void upon its face. Petitioner further contends that this law must apply to all counties or none, to be consistent with 12-17-271 and the following sections which are substantially Constitutional Amendment 328. This 1920 law is flagrantly in conflict with both this section of the Code of Alabama and the intent and purpose of 328. When a conflict of this nature exist, the law in conflict is void because of the "general repealer" which was built into 328 in contemplation of just such a conflict. If 328 had wanted to exempt the Birmingham Division under 328 for court reporters, they would have exempted them in the same manner as they did in 7-107 (a) (1) entitled secretaries, in which the legislature granted, in effect, only Jefferson private secretaries. by not doing so, in the case of court reporters, Birmingham has not been granted "privileged status".

Nothing that Petitioner has researched has said that any court in the State of Alabama has the right to deny the existence of court reporters in civil cases. Before 328 was enacted, Birmingham was forced to recognize certain safeguards which were imposed upon them by this Court. In **Ex parte Tsimpides et al.**, 131 So. 2d 873, on rehearing Justice Stakely states: "In the absence of 827(5) or some equivalent, no system would be available to cover the reporting of civil cases at law in a county which has no official reporter. For example, in the absence of this section, a private contractor or unofficial reporter in such a county could charge excessive fees." This Court recognized that certain restraints on both the lower court and the reporter. Now when Alabama has passed 328, which clearly holds itself out to be a "Unified Court System", Birmingham would hold out to this Court that no rule or law binds them. In effect they are saying that **no system** is a system. For this reason the practice of this court is arbitrary and discriminatory in itself. **Richards v. Townsend**: 303 F. Supp 793 (1969)

Further, Petitioner points out to the court that Section 12-17-279 of the 1975 Code of Alabama is in actuality a 1920 piece of special legislation. Petitioner has no doubts that, in 1920, Jefferson County was the only county in Alabama with four or more judges. But, this is fifty years later and there is now not a

single county that does not have four or more judges or two or more counties. In other words Alabama's "New Judical Article" applies to no county in Alabama, which is clearly in conflict with the intent of Constitutional Amendment 328. Petitioner further points out that this section was added after the act was passed and petitioner is unable to find this Section in the prior Code. Being that the 75 Code was recompiled it is Petitioner's understanding that the 1940 Code is still the Offical Code and Petitioner is unable to find this statue in the general law of Alabama as adopted in the 40 Code. Being that this obscure statue just showed up in the 75 Code, Petitioner can only wonder at it's history and how the committee came to place it there.

Petitioner must point out that the court and Petitioner's lawyer, with the help of the reporter, evolved a plan to wilfully deny Petitioner a fair and speedy trial and due process. They attempted to entrap and ensnare, with coersion, duress, slander, and intimidation, during the trial, and then sought to deny, Petitioner any right of appeal. Petitioner has been froced to represent herself, in this cause, because she is unable to obtain adequate counsel to represent her. She is unable to enforce her contract with Mr. Kennedy and the BAR is closed to Petitioner. Even if Petitioner had not exhausted every means available to Petitioner to hire counsel, Petitioner feels that the letters that were recently circulated by the Birmingham BAR would make it impossbile to obtain counsel in this State, now. Petitioner feels that his actior is in violation of both the 6th and 14th Admendments of the Constitution.

CONCLUSION

For the foregoing reasons, Petitioner feels the court erred in not exercising control and supervision over its lower courts and the personell of said lower courts. Petitioner feels that these errors can only be rectified with a new trial. Further, Petitioner feels, that to have a full and significant trial or appeal, this Court should appoint counsel to represent Petitioner since Petitioner is unable to obtain counsel and the BAR being closed to petitioner. Further, Petitioner feels that this Court should enforce State law and make Birmingham part of the "Unified Court System" of Alabama. This problem can only be rectified when Birmingham establishes a court reporter system. Any system is better than a complete lack, as exist now.

Respectfully submitted,

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Petitioner

APPENDEX

THE STATE OF ALABAMA —— JUDICAL DEPARTMENT
THE SUPREME COURT OF ALABAMA
SPECIAL TERM, 1979

Exparte: Bettye L. Coughlin
PETITION FOR WRITE OF MANDAMUS
(In re: Betty L. Coughlin
f.

Tom Gloor, et al.)
78-160

MADDOX, JUSTICE.

This case comes to this Court on a Petition for Writ of Mandamus to Thomas E. Huey, Presiding Judge of the Tenth Judicial Circuit.

The facts, stated briefly, are as follows:

In July 1974, petitioner was found guilty of violating what is now Code 1975, S 32-5-15 (Failure to obey a police officer).

The Court of Criminal Appeals reversed her conviction and remanded the cause on the ground that there was no evidence that the order of the deputies was related to the direction, regulation or control of traffic as required by the statute. **Coughlin** v. **State**, 56 Ala. App. 255, 320 So.2d 739 (1975). Upon remandment, the case was nolle prossed. Petitioner then filed a complaint against Melvin Bailey, Jefferson County Sheriff, Deputy W. D. Ragland, and Tom Gloor, Jefferson County Commissioner. In four counts, she claimed damages for false arrest, malicious prosecution, abuse of process and negligence. The cause was tried before Judge G. W. Wright, designated as a Special Judge, and a jury, which returned a verdict in favor of all defendants on all counts. At this time, the petitioner continued legal proceedings **pro se**. She made a motion for new trial, which was denied.

She then filed an ex parte Writ of Error Coram Nobis. In this petition, she, for the first time, alleged, in effect, that the practice followed in the Birmingham Division of the Tenth Judicial Circuit of requiring the parties in a civil case to provide a court reporter to take down the testimony was illegal. She claimed that since she would have been provided with an official court reporter in any other court of record in Alabama, her constitutional rights guaranteed by sections 10 and 13 of the Alabama Constitution

and amendments 5 and 14 of the Federal Constitution were violated.

Respondent contends that Section 12-17-270, Code 1975, exempts the Tenth Judicial Circuit from the provisions of law that require the appointment of an official court reporter. Respondent argues:

"Petitioner certainly was able to preserve the trial testimony by procuring the services of a private court reporter, just like any other litigant in the Birmingham Division. In fact, she did have the service of a private reporter, hired at her request. This has been the standard operating procedure for years in the Birmingham courts since neither the Legislature nor this Court has imposed a duty upon the Tenth Judicial Circuit to hire a court reporter for petitioner or for any other litigant in the Circuit."

It is not questioned that Mrs. Coughlin or her attorney paid the private reporter's per diem of $600 for five days of testimony. It is also undisputed that the private reporter wrote to Mrs. Coughlin, prior to the time she filed her mandamus petition, the following:

"This will confirm my telephone conversation with you in which I told you we would prepare for you an appeal transcript in the above styled cause.

"As I told you, before any work can commence on said transcript, we will need our fee in advance. As I am sure you can understand, we have expenses connected with the preparation of transcripts; and this will enable us to cover these expenses.

"As I discussed in a conversation with your son, we will be happy to prepare an original and three carbon copies of said transcript, though the estimate which I gave you of $2650.00 was for an original only of the transcript. The three carbon copies, total charge, will be an estimated $1100.00 extra. As I discussed with you, this is an estimate only; and should the total price be more than this amount, we will bill you at the completion of the transcript. If the total price is less than we estimated, we will refund my overage which is due you at the completion of the transcript.

"Please let us hear from you so that we may prepare the transcript for you in a timely fashion, as the allotted preparation time has already begun."

After the mandamus petition was filed in this Court, the private court reporter wrote to Mrs. Coughlin, as follows:

"We offer to prepare the original only of an appeal transcript for you in the above styled cause if you will deposit with us the sum of $1.462.50. This amount has been calculated on the basis of our estimate of 1,250 pages at $1.65 a page, the rate provided for official reporters by Rule 40 of the Rules of Judicial Administration, less the $600.00 per diem we have been paid for five days attendance at the trial.

"It is my understanding that you will not need a copy, but if you want one copy, we ask that you deposit with us the additional sum of $625 (1,250 pages at $0.50 a page).

"Please understand that this is an estimate only, and that upon delivery of the transcript we will expect payment for the total actual pages at $1.65 a page for the original and $0.50 a page for one copy. If the total price calculated on this basis is less than your deposit, we will refund any overage due you on completion and delivery of the transcript.

"We make this offer for this case only and without prejudice to our position as to charges for our reporting services." (A copy of this letter was sent to the Clerk of this Court.)

Respondent claims that the issues presented in the mandamus petition are moot because she has been offered the price of an appeal transcript charged by all "official" court reporters in the state. We have to agree. Petitioner, having appealed, is getting the same rate for the **appeal transcript** as litigants in any other circuit could get. If she desires an appeal transcript of the evidence, she would be required to pay the rates provided for by law; provided, of course, she did not desire to proceed on appeal as otherwise provided for by law or rule. See Rule 24 ARAP.

We hold that petitioner is not entitled to relief by her mandamus petition. Prior to the time she filed her peitition for mandamus, she had appealed from the original judgement, and in view of the fact that she has been offered an appeal transcript at the same rate other litigants have to pay, and has been offered a credit of $600 which she paid during the trial of the case, we find

that the relief she seeks by petition for mandamus should not be granted.

WRIT DENIED.

All the Justices concur.

IN THE CIRCUIT COURT FOR THE TENTH JUDICAL CIRCUIT OF ALABAMA
BIRMINGHAM DIVISION

Ex Parte: Bettye L. Coughlin

Bettye L. Coughlin,
Plaintiff,

v.

Tom Gloor, et al.,
Defendant.

CA. NO. 53030

WRITE OF ERROR CORAM NOBIS

Comes now Bettye L. Coughlin and petitions the above-named Court from Coram Nobis and shows the following in support of this petition.

(1) This was a civil action tried in the above styled Court, by special judge, G. H. (Spud) Wright, Jr., of Opelika, Alabama. Petitioner requested of the Trial Judge, both before and at the trial, a court reporter for the express purpose of taking down the evidence for a transcript on appeal. The bailiff obtained the services of a reporter whom the petitioner neither hired or had any control over. On the third day of trial a demand was made by said court reporter for $750.00 to cover her present appearances and an advance on her future appearances. To enforce this demand the reporter threatened to "walk out of the trial if not paid within the hour." Petitioner paid under duress, there being no contract or agreement, with the understanding that the evidence would be transcribed upon demand, compleation of which the petitioner would pay said reporter. Now said reporter wants payment in advance again and has set a arbitrary sum that is excessive in the

opinion of petitioner. When this mater was taken up on with the trial judge petitioner was promised a ruling but none was forthcoming. Now from talking with the personel of this Division and the Bessemer Division the petitioner it has come to the attention of petitioner that the Birmingham Division is the only Division in the state that is outside of the New Judical Article, Constitutional Admendment 328.

(2) 328 provided for a "Unified Court System", but the Birmingham Division is outside of this system and is therefore immune from the rules set down by the Supreme Court to regulate reporters. The fact is that when 328 went into effect it removed Title 7, section 827(2) and (5) which did regulate the Birmingham Division. Ex parte Tsipides, 272 Ala. 430, 131 So.2d 873.

Petitioner contends that since the Bessemer Division of the same circuit is under the Unified Court System, and in that division the fees, cost and supervision of court reporters is regulated, the petitioner was violated under both the federal and state constitution. By its very practice Birminghams lack of any supervision or control over court reporters is violative of petitioners right to a fair and speedy trial.

Since it would have been the "right" of petitioner to an official court reporter in any other Court of Record in Alabama the petitioner has been violated under Sections 10 and 13 of the Alabama Constitution and Articles 5 and 14 of the United States Constitution.

The Birmingham Division's pratice of allowing the reporter to demand payment in full, on the threat of walking out while the trial is in progress, places an unreasonable burden upon the party upon whom the demand is violative of the petitioners "right" to a fair and speedy trial and is violative of both the State and Federal Due Process Clause.

Birmingham's policy is an attempt to sell justice. The right to a full appeal is based on a system upon which the right of an unofficial transcript is not based upon a set fee but is set apon a what the market will bear system. The practice is violative in that the product (transcript) can never be what the petitioner had a right to under Constitutional Admendment 328.

(3) Petitioner request that petitioner be granted a new trial for the the herein above reasons. Petitioner feels that since she has been deprived of due process under both the Federal and State Due Process Clauses she is intitled to a new trial to rectify this

lack of due process in the Birmingham Division. Petitioner request the return of the money taken by said court reporter, for in the opinion of petitioner this money was obtained through fraud, the product sold by said reporter is and can never be what it was represented the petitioner as, namely an offical transcript. For reference petitioner refers the Court to Rule 80 of the Alabama Rules of Civil Procedure; Middleton v. Harford Accident & Indemnity Do., 119 F.2d 721; Jones v. State, 174 Ala. 85, 57 So. 36.

Petitioner also request any futher relief which the Court may grant.

(4) This writ is not a refusal to pay or make reasonable bond, which (bond for transcript) has never been and which the petitioner has been informed that the Court has no control over. This writ is to demand the equal protection that every citizen was promised under both the State and Federal Constitutions.

WHEREFORE, the premises considered, Petitioner prays that the Court grant a stay on the time for prefecting this appeal until such time as these questions are setteled and the petitioner set on equal footing.

Done this the 18th day of December, 1978.

Bettye. L. Coughlin
Plaintiff
1616 Mann Dr.
Birmingham, Alabama 35214
798-5158

December 19, 1978. Above writ of error coram nobis denied.

Judge Callaway

IN THE SUPREME COURT OF CIVIL

APPEALS OF ALABAMA

Ex Parte: Bettye L. Coughlin
Petitioner

RE: Bettye L. Coughlin
Plaintiff — Supreme Court Appeal No. 78-160

v.

Tom Gloor, et al., — Civil Case No. 53030
Defendant

PETITION FOR WRIT OF MANDAMUS

Comes now Bettye L. Coughlin and petitions the abovenamed Court for a writ of mandamus to the Presiding Judge, Thomas E. Huey, of the Birmingham Division of the Tenth Circuit of the State of Alabama and shows the following insuport of this petition. (1) This was a civil action tried in this division by a Special Judge, G. H. (Spud) Wright, Jr., of Opelika, Alabama. Petitioner made a Rule 60(b) motion (inclosed is a copy) entitled Writ of Error Coram Nobis which was heard by Acting Presiding Judge, C. W. Calloway, Jr., and subsiquently denied in open court on 12/19/78, there from this appeal is taken.

Petitioner requested a "court reporter" prior to and at the trial itself. The bailiff obtained the services of a reporter whom Petitioner and her lawyer neither hired nor had control or choice of. On the third day of trial, in open court, a demand was made for $750.00, by said reporter, to cover her present appearances and and advance on her future appearances. To enforce this demand the reporter threatened to walk out of the trial if not paid within the hour. The Petitioner paid, but stated that it was being paid under duress, and understood that the reporter would transcribe her notes and bill petitioner for the product. Now, said reporter wants payment in advance again and has set an arbitrary and excessive fee. When this issue was taken up with the Trial Judge, the Presiding Judge's Bailiff (whom hired the reporter) and the Acting Presiding Judge, the Petitioner was informed that this

Circuit in effect exist outside of the Unified Court System. In civil cases there re no "rights", laws or rules and in effect the right to a full appeal is denied in the Birmingham Division.
(2) the new Judical Article of the Alabama Constitution (Amendment No. 328 approved December 18, 1973 reports to make the courts of Alabama a "unified court system", but the Office of Court Management does not exercise any control over the Birmingham Division's practice of allowing reporters to charge arbitrary fees for appearances and transcripts. In fact 328 removed Title 7, Section 827(2) and (5) which did infact regulate court reporters in the Birmingham Division. Since by it's very nature the practice allowed in the Birmingham Division is arbitrary it is in conflict with 328 and is therefore violative of Petitioner's right to a Fair and Speedy Trial, one of the purposes for which 328 was passed.

It is unconstitutional to have two divisions of the same circuit appling two entirely different standards. The Bessemer Division of Jefferson County is under the supervision and control of Court Management. Being under 328 they are required to make an offical court reporter available, to supervise the reporter and regulate the fees and manner of payment of the reporter. Birmingham in the same circuit falls under no such law or rule and is not under Court Management. In point of fact the Birmingham Division is not a part of the "unified court system of the State of Alabama". This pratice is violative of Petitioners rights under Sections 10 and 13 of the Alabama Constitution of 1901 and 5 and 14 of the United States Constitution.

Petitioner further holds that when the reporter was called without the approval of petitioner and since the reporter was not in any manner responsible to Petitioner, a fact which was stated in open court, Petitioner's right's of Due Process, a Fair and Speedy Trial and a Meaningfull Appeal under both the State and Federal Constitution were violated. Ex parte Wright, 228 Ala. 96, 151 So. 865; Ex parte Tsimpides, 272 Ala. 430, 131 So.2d 873.

Petitioner states that she cannot find any statue or rule, now or then existing, that gives the court or reporters of the Birmingham Division a prefered status and to allow the Birmingham Division such a prefered status is a direct violation of both Due Process Clauses of the State and Federal Constitution's. The Birmingham Division by practice has in effect denied the Petitioner a Fair and Speedy Trial by not providing an offical court reporter,

which would have been her right under 328 in any other circuit of this State. The right to a meaningful appeal was extended to Petitioner by the Legislature this right was extended futher when by law and rule provisions were made for reporters in both civil and criminal courts of record in Alabama. Petitioner can find no provision that would allow this Division to operate completly outside the law that now exist. The Birmingham Division's policy is unreasonable, arbitrary, unjust, and discriminatory. Ex parte Tsipides, 272 Ala. 430, 131 So.2d 873.

Birmingham Division's practice of allowing a reporter to demand payment in full, when ever they please, upon the threat of walking out while the trial is in progress places an unreasonable strain upon the party and thereby denies the petitioner a Fair and Speedy Trial. This places the party in a position whereby they are not able to direct or participate in the trial or it's futher progress and thereby denies the Petitioner a Fair and Speedy Trial. The Birmingham Division system is discriminatory in that it allows reporter's to come in and set their fees at whatever price the reporter decides on, on any terms they decide on, and whenever they decide, and to enforce their demands the trial judge will allow the reporter to jeoardize the trial in order for the reporter to collect fees. This is an attempt on the part of Birmingham to sell justice making the proceedings so expensive that none but the rich can afford the price and even if you can pay the demands that are made on the party will ditract and confuse to the point of making the trial a sham. This practice is violative of both the State and Federal Constitution.

The pratice perpetrated by the Birmingham Division is an attempt to sell justice based upon a system whereby reporters in this division are allowed to charge the person making an appeal what ever price the market will bear for a "transcript" that is not and can never be a transcript. Since the product is only a certified copy, the same as a deposition, it can never be direct evidence or a transcript. Under Rule 80 of the Alabama Rules of Civil Procedure this paper is worthless in the opinion of Petitioner. Since Petitioner was forever denied this the "Best Evidence", which she was entitled to under 328 and both Constitutions, she has in effect been denied a Fair and Speedy Trial. See Middleton v. Hartford Accident & Indeminity Co., 119 F.2d 721; Jones v. State, 174 Ala. 85, 57 So. 36.

(3) Petitioner requests that the Petitioner be granted a new trial

for the hereabove pointed out reasons. Petitioner feels that since she has been deprived of Due Process under both he State and Federal Constitutuion she is entitled to a new trial as a "Right" Further Petitioner request the return of the $750.00 taken by said reporter, for Petitioner feels that the Court as well as the reporter misrepresented the product to Petitioner and thereby defrauded the Petitioner of a true transcript and a Fair Trial

(4) Since this Court has control of the "unified court system" under 328 it is therefore responsible for the supervision and control of said system. Therefore the Court has a duty and obligation to retify the situation that exist in the Birmingham Division, of the Tenth Circuit.

(5) Inclosed is a copy of the motion filed with the Clerks office on 12/18/78. This motion was entitled a Writ of Error Coram Nobis and was heard in open court as a Rule 60(b) A.R.C.P motion. This motion was timely, within 4 months, and was heard by C.W. Calloway, Jr., thereby making the motion a part of the original action. Civil Action No. 53030 has now been docketed with this Court as Appeal Case No. 78-160 but at the time this motion, since the appeal is still pending, was made the Acting Presiding Judge had jurisdiction to act on this motion. The motion was summarily denied and all forms of relief, including a stay while this question was on appeal, were denied also.

Since the outcome of this question effects the time for preparing of the trial record and since the Petitioner is entitled to a full appeal Petitioner request a stay of said time untill this matter can be resolved and Petitioner set upon equal footing. WHEREFORE, the premises considered, Petitioner prays that the Court grant the petition and order that an answer to the petition be filed by respondents.

Done this the 26th day of December, 1978.

1616 Mann Dr.
Birmingham, Alabama 35214
798-5158

Betty L. Coughlin (Petitioner)

COVER LETTER

Petitioner is a layperson and is therefore unfamilar with the finer points of our present legal system. Petitioner has sought the services of counsel for this appeal and has pursued this matter in every reasonable means possible. the lawyer that was hired for the trial, after charging the Petitioner $2,000.00 plus expense, withdrew and would not even discuss this appeal, even though it was agreed that he would appeal if mistakes of a Constitutional nature were made during the trial. even though Mr. Kennedy admits that Constitutional errors were made during the trial, Mr. Kennedy has withdrawn over the objections of Petitioner and therefore Petitioner is forced to prosecute this appeal by herself since both the state and local Bar are closed to Petitioner. Being a layperson Petitioner is doing the best she can and therefore asks the Courts indulgence in this matter.

This is a case in which there was a reporter which nobody hired and therefore nobody was responsible for her. Yet, the Petitioner is expectd to pay top dollar for a transcript, which is not a transcript at all. To top all this off even if Petitioner does pay there is no adsurance that this paper could or would be evidence (see Rule 80 of the Alabma Rules of Civil Procedure).

Since this was denial of a Fair and Speedy Trial and a violation of Due Process, the Petitioner request the Court to grant this and handle this writ as what it is a plea for relief.

Bettye L. Coughlin (Petitioner)

JEFFERSON COUNTY, ALABAMA COMPLAINANT VS. BETTY L. COUGHLIN and HARRY J. COUGHLIN RESPONDENTS	CIRCUIT COURT, TENTH JUDICIAL CIRCUIT OF ALABAMA EQUITY DIVISION CASE NO. 163-584
AND	
CHARLIE MANN, et al COMPLAINANTS VS. HARRY J. COUGHLIN, et al RESPONDENTS	CASE NO. 148-258

ORDER

This cause came on to be heard on this date upon certain written statements and prayers submitted to the Court over the sitnatures of the Respondents in this cause.

In the pleadings filed by the Complainant, Jefferson County, Alabama, it is requested that the Respondents be unjoined from blacking the drainage facilities of Complainant in or under Mann Drive and in or under the driveway from Mann Drive on Respondents property. As the Court understands the basic prayer of Respondents as set forth in their statements in file in this cause, Respondents seek to hold Jefferson County, Alabama, in contempt of the Final Decree of this Court as rendered in cause numbered 148-258, because of their alleged violation of the commands of that decree.

Because of the confused state of the pleadings in these causes, that is in the said cause numbered 148-258 and this instant cause, and from the evidence heard in support of the alleged contempt of Complainants in the two causes, the Court cannot found an order or decree thereupon, and until the said pleadings are clarified and brought into proper legal presure, this Court is powerless to rule thereupon.

In open Court, Respondents have stated that the "Birmingham Bar Association is closed to them" and that they cannot obtain counsel to represent them; that it is not because of their in-

ability, financially, to pay counsel, but because of "politics" which have allegally entered into the refusal by all counsel approached by Respondents for representation of them in these causes.

Because of the unusual nature of the status of this cause, and because this Court is a Court of conscience and common sense, and because this Court takes judicial knowledge of the fact that the Birmingham Bar is not and should not be closed to any proper litigant, this Court feels that it should and does take the liberty to refer this matter to the Grievance Committee, Referral Committee, Executive Committee and the President of the Birmingham Bar Association for consideration and determination relative to the proper employment by Respondents of counsel to represent them in these causes.

Accordingly, it is CONSIDERED, ORDERED, ADJUDGED AND DECREED as follows:

ONE: That all the matters presented by the pleadings in this cause should be, and they hereby are, reserved for future ruling and consideration by this Court.

TWO: Respondents are allowed the right and privilege, within 60 days from the date of this instant decree, to obtain legal counsel and/or by their own efforts, amend the pleadings heretofore filed in this cause by them.

THREE: A copy of this order should be served, by ordinary U.S. mail, upon the respective chairmen of the said Grievance Committee, the said Referral Committee, the said executive Committee and the said President of the Birmingham Bar Assoiciation for such attention as they may deem proper in the premises. The Court offers to meet with said committees, in chambers, at a future time or times.

DONE and ORDERED this the 4th day of January, 1971.

Judge William C. Barber

cc. Hon. Edwin Strickland
Betty L. Coughlin
Hon. Grover McLeod
Harry J. Coughlin

We wish to inform we have filed this matter to the Ala. BAR Pres. Mr. Lee III the Pres. of the B'ham. BAR Asso. the Executive Comm. we ask that you inform them of our letter. Novi-74 on Mr. Bachus.

Grievance Comm.
900 Jeff Co.
Court House
35203

Bettye, Harry, Harry Jr.
Coughlin
1616 Mann Drive
Birmingham, Alabama 35214
Phone 798-5158
November 7, 1974

Dear Sir,

I wish to lay before you some facts that I feel will make clear to you that in our resent misdemeanor case there was a grave miscarriage of justice on the part of the Court as well as our retained counsel Carol Prifett of the firm Adams, Baker and Clemon and prior to her Spencer T. Bachus III (on who you have already received a letter).

The facts of this case are as I will relate herein and in the prior letter that you have recieved.

ONE By conferring with Spencer Bachus and accepting his word about the standing of the case, over the wishes of her clients, Prifett was unprepared to defend us the day of the trial and thereby damaged our cause.

TWO By not filing the brief, so ordered by Judge Burgin Hawkins, to show how the County was named in the prior civil suits (copy of instant decree inclosed) she further damaged our cause.

THREE By her own words and actions before the bar she proved that she was unfamiliar with the workings of the court and on several occasions stated she was incompetent.

I wish to bring out that our 6th and 14th Amendment rights were violated with the full knowledge of the court. The right to counsel has been interpreted to mean effective counsel. Not only did she have to be a lawyer and competent in some field of law. She had to be competent and familiar with that particular court setup. Since our attorney was unfamiliar with the crucial problems of our case, namely the County (see inclosed form) we have been deprived of our right to counsel even though she was retained counsel. Two cases that point this out are: People v. Ibarra, 60 Cal. 2d. 460, 34 Cal. Rptr. 863, 386 P.2d. 487 (1963). and State v. Moser, 78 N.M. 212, 430 P.2d 106(1967).

What I point out is not only was we deprived of counsel in the hearing, but that counsel stated before the bar that she had already withdrawn from the case before the sentence had been pronounced. Stating that she was not granted permission by her partners, Adams, Baker and Clemon, to continue with the case. Further she stated that they had forced her to withdraw. We bring to your attention that when we hired her she had to leave the room to seek her partners permission to accept our case and that the check was made out to the firm of Adams, Baker and Clemon. She also stated at that time that she would take it one step at a time and that each step would be a different fee. We took to mean that she would take the case all the way through the appeal. So for these reasons we also ask that the firm of Adams, Baker and Clemon to taken to appear everywhere her name does in this brief.

I wish to state further that the Judge upon hearing these facts refused to grant any further delays for us to, file the brief on the county, retain competent counsel, and relayed to the courtroom information retained outside the courtroom that was prejudice and hearsay as the reason for passing sentence.

We are asking;

ONE For a refund of all monies received by Bachus and Prifett since neither earned the fees they were paided in good faith for.

TWO Since their incompetense resulted in the conviction of said client we seek compensation for the mental anguish they have caused the client and family.

THREE Since these irregularites were brought to the attention of the Court at the time it was being heard and since defendants did did make objections in a constructive

manner and was overruled and corrected by Judge Burgin Hawkins, I would like to know why a reversal should not be granted on the grounds of; People v. Marsden, 2 Cal. 3d. 118, 84 Cal. Rptr. 156, 465 P.2d. 44 (1970).

My closing statement to you is, you are the Bar it is your duty to the public to police your own morals. If you are unable to do this among yourselves no wonder the figures show an increase in crime. It also seems to me rather silly to think that you would have to hire another lawyer to get back my money from another lawyer when all this time I thought that all lawyers were under the same code or ethics. Seems to me the brotherhood could figure out a better way to drum up business.

We wish to be informed of any action to our brief.

January 17, 1975

Mr. Harry Coughlin
Mrs. Bettye Coughlin
1616 Mann Drive
Birmingham, AL 35214

Dear Mr. and Mrs. Coughlin

RE: Caryl P. Privett

The Grievance Committee of the Alabama State Bar carefully considered the contents of your letter of November 7, 1974, wherein you complain concerning the manner in which Miss Privett handled a certain matter on your behalf.

The jurisdiction of the Grievance Committee is strictly limited to investigations concerning the alleged unethical conduct of attorneys in violation of one or more of the specific rules governing the conduct of attorneys in Alabama. In addition to considering the contents of your letter and other materials furnished by you, the Grievance Committee made a careful investigation of the facts. From the information contained in your letter and that revealed by the Committee's investigation, it was the unanimous opinion of the members of the Committee that your complaint of unethical conduct is not well founded and that Mrs. Privett is not guilty of any unethical conduct.

The Committee is without authority to give you legal advice or practice law on your behalf. You will have to rely upon an attorney in private practice to advise you of your legal rights.

Yours truly

William H. Morrow, Jr.
General Counsel

January 9, 1975

Mrs. Betty L. Coughlin
1616 Mann Drive
Birmingham, Alabama 35214

Dear Mrs. Coughlin:

Chief Justice Heflin asked me to respond to your recent letter concerning your problems with the Birmingham attorneys and court system.

The Supreme Court does not have authority to take action in matters dealing with discipline, removal, suspension, and retirement of judges and lawyers. The authority for judges rests with the Judicial Inquiry Commission, of which Mr. Oliver W. Brantley, 200 South Hull Street, Suite 100, Montgomery, Alabama 36104, is the Chairman. The authority for lawyers rests with the Grievance Committee of the Alabama State Bar Association.

We hope you are able to resolve your problem, and wish you the best of luck.

Sincerely,

Mike House
Administrative Assistant to
Chief Justice Howell Heflin

May 25, 1977

Harry J. Coughlin, Sr. and
Betty L. Coughlin
1616 Mann Drive
Birmingham, Alabama 35214

Re: Coughlin vs. Gloor, et al.
Our File: 966

Dear Mr. and Mrs. Coughlin:

In reply to your letter which is undated but which I received May 20, 1977 I feel that you have placed me in a position of not being able to continue representation of you in the above referenced matter. All actions taken to date have been with your best interest in mind and I have not done anything that would endanger your health or well-being.

By copy of this letter to the Court I am requestion the Court to withdraw my name as Attorney of Record in this matter. If you will call my office and set up an appointment I will be happy to turn over the Deposition, as well as the rest of the file to you.

Yours truly,

Robert L. Austin

Harry J. Coughlin
1616 Mann Dr.
Birmingham, Ala. 35214

Leo E. Costello
Robert L. Austin
Attorneys At Law
3716 South 5th Avenue
Birmingham, Alabama 35222

Dear Sirs,

This letter is notice of what we the undersigned have told you and what our intentions are in this matter.

1. We did notify you that I (Bettye) was sick and would have to undergo further treatment at a future date.
2. We did notify you that we did not want any delays.
3. Official notice was not given as to depositions and since that is the law the law was not complied with and therefore no legal grounds for a continous were established.
4. We were never notified offically that the case was ever set on

the calendar and no note was made on the docket sheet of the date.

5. No agreement made between lawyers (depositions or otherwise) is valid without the express cosent and agreement of the client and we never agreed to this.
6. Curtsey does not replace legal process.
7. We assured you that we would be in court to prosecute.
8. We notified you to appeal the contenuance if it was granted by Huey and set out the grounds.
9. We repeat to you that the delay will endanger my (Bettye) life to postpone this trial.
10. Since there grounds and a legal procedure for appeal we order you to appeal or we will do it for you and so note in our appeal.
11. You were notified of condition by doctor (nervousness, surgery, etc.).
12. From 5/12/77 to 6/6/77 is not thirty (30) days and is insufficient time for us not them and the motion was unseasonable at this time since they (defendants) have had over one year to prepair their case.
13. We will expect our copies of the depositions (Gloor, Bailey, etc.) to be made available **now**.
14. You will make the admendment for damages to read seven hundred and fifty thousand dollars ($750,000.00) **now**.
15. If you cannot understand this or needs clarification you can notify us in writing. We will expect such writing within five (5) days of receipt of this letter.
16. Do you intend to go back to Judge Huey (at once) to state the **hardship** this delay will work upon me (Bettye)?
17. Do you intend to withdraw?
18. What are your intentions?
19. Nothing we have asked could be considered either illegal or immoral and we know of no ethical or legal objections you could have to following our orders in this matter.

Thank You,

Harry J. Coughlin, Sr.

Bettye L. Coughlin

Harry J. Coughlin Sr.
1616 Mann Dr.
Birmingham, Alabama 35214

Leo E. Costello
Robert L. Austin
Attorneys At Law
3716 South 5th Avenue
Birmingham, Alabama 35222

Dear Mr. Austin and Mr. Costello,

1. We wish to notify you in writing that our case is to be amended to the amount of $750,000.00 (seven hundred and fifty thousand dollars), which was our original agreement.

2. Neither I nor my wife have refused to give any material requested (depositions or statements) which have been requested timely, but it must be understood that we wish you and the court to observe the legal formalities in this matter.

3. We wish to assure you now as in your office, we intend to be in court on the appointed day of the trial, further this case has been on the books for over one year. We cannot control circumstances such as sickness, and schedule changes. The time you so freely gave to Strickland was already alloted and accounted for and not for you to reassigned, any depositions will be at our convenience not yours and by legal process only.

4. If the delay is granted on any of these pretextes, we will expect it to be appealed to the Court of the Judiciary and the Judicial Inquiry Commission. Since this is the law of Alabama we know that you will comply. Further if you do not appeal we will so note in our appeal. The reason for this is that under Alabama law, if the proscution fails to show the defense is intitled to an automatic dismissal under the Fair and Speedy Trial Doctrine.

5. We repeat Mr. and Mrs. Coughlin will be ready and able to be in court on June 6.

Thank You,

Harry J. Coughlin, Sr.

Bettye L. Coughlin

IN THE CIRCUIT COURT FOR THE TENTH JUDICIAL

CIRCUIT

OF ALABAMA

Bettye L. Coughlin,

Plaintiff

vs. CASE NUMBER 53030

TOM GLOOR, et al,

Defendents

CAPTION

TRANSCRIPT of conversation held in Judge Huey's Courtroom on Friday, August 18, 1978 at 10:15 recess.

APPEARANCES

MR. WILLIAM KENNEDY, Attorney for the Plaintiffs.
MRS. BETTYE L. COUGHLIN
MR. HARRY J. COUGHLIN, JR.
MR. HARRY COUGHLIN, SR.

Transcript Prepared By:
CARL D. WALLS

MRS. KENNEDY: (Unaudible) — for appearing, $120.00 per day. And, of course, this does not include any transcript or — I mean, for the purposes of either daily use or appeal. That's strictly $120.00 a day appearance, and she charges $60.00 per half day. So we've now use up —

MR. COUGHLIN, JR.: $450.00.

MR. KENN: Three and one half days. So that is 360 plus 60 is $420.00.

MR. COUGHLIN, JR.: Well, now, you know, as I understand it —

MR. KENNEDY: Now, wait a minute, let me finish.

If she wants to — whenever a court reporter is called here the bailiff calls the court reporter. And it is usually at the instance of one attorney or the other. However, this was at Mrs. Coughlin's instance that they — that Mike called the court reporter. I though the other side had called her until late yesterday. So I wanted to make sure, and I checked with Mike and he said, yes, that he had called at your request and that she has come over here.

Now, our original agreement was that when I called upon you for posting of additional expenses that it would be forthcoming. Of course, you have posted, as I recall, $1,000 expenses. And I quickly ran down my list of expenses out there, and it came to some — uh — roughly 7 to 800 dollars. That includes all those depositions, you know, the whole expenses so far. And this trial looks like it will go through today, through Monday, and perhaps into Tuesday. So we are looking at five trial days at $120.00, will be $600.00, plus maybe Tuesday would be another $720.00. And this way it looks that — of course, as I told you before —

MRS. COUGHLIN: And, what you are saying is I won't be getting a transcription for this amount?

MR. KENNEDY: No, ma'am. you are not. You will not get a transcription for this amount. And —

MR. COUGHLIN, JR.: You know, (unaudible) — be back here. She gets paid for an appearance, what is an appearance, Kennedy?

MR. KENNEDY: It's for coming over here.

MR. COUGHLIN, JR.: Okay.

MR. KENNEDY: (Unaudible) — supposed to be here.

MR. COUGHLIN, JR.: Besides that, Kennedy, when she says —

MR. KENNEDY: Don't argue with me, Harry.

MR. COUGHLIN, JR.: I'm not arguing.

MR. KENNEDY: I don't have the time.

MRS. COUGHLIN: Okay, we can talk to —

MR. COUGHLIN, JR.: I'm not arguing with anybody.

MR. KENNEDY: I don't have a contract with anybody.

MR. COUGHLIN, JR.: You mean she is extending credit?

MR. KENNEDY: She has extended credit, and I want to

have her assured that she will get it. Now, you must make those arrangements —

MR. COUGHLIN, JR.: Well, we have assured her, haven't we? What reason now does he have not to be assured?

MRS. COUGHLIN: I asked for a credit check —

MR. COUGHLIN, JR.: We come in here and she denies everything (unaudible). She extended credit. We didn't ask for it.

MR. KENNEDY: We are dealing with individuals. They want the money up front.

MR. COUGHLIN, JR.: Kennedy, when you extend —

MRS. COUGHLIN: (Unaudible) Because if you didn't make arrangements for her I would have had Mr. Walls —

MR. COUGHLIN, JR.: She extended credit —

MR. KENNEDY: I didn't have — (unaudible)

MRS. COUGHLIN: Mr. Walls extended me credit. What is the difference between this court and that court?

MR. COUGHLIN, JR.: Well, wait a minute. The only one reason she extended credit — there is only one reason to have it withdrawn credit.

MRS. COUGHLIN: Mr. Walls didn't (unaudible)

MR. COUGHLIN, JR.: Does she have some information of which we are not aware of at this time, some information that (unaudible)

MR. KENNEDY: Do you want her back or not?

MR. COUGHLIN, JR.: (Unaudible) make the check out for $450.00 paid in full as of today.

MR. KENNEDY: You are firing the court reporter as of today?

MR. COUGHLIN, JR.: We are paying her —

MRS. COUGHLIN: No, no. We want to pay her everything she is due at this time.

MR. COUGHLIN, JR.: We are paying her $480.00

(UNAUDIBLE)

MR. KENNEDY: But if you want her back Monday you've got to call her.

(UNAUDIBLE)

MRS. COUGHLIN: We have said nothing to her. You have talked to her.

MR. COUGHLIN, JR.: The fact is (unaudible). We've been reasonable. If she withdrew at this time after accepting our

check, after making an unreasonable demand, we could sue her, yes, sir.

MR. KENNEDY: You said sue her?

MR. COUGHLIN, JR.: Yes, sir.

MRS. COUGHLIN: (Unaudible)

MR. COUGHLIN, JR.: And you know something? She would not be allowed by the injunction and everything in Judge Barber's Court to work another court case till she did show up. Because you can't demand specific performance of a personal service contract.

MRS. COUGHLIN: Well, (unaudible) just write void on there.

MR. COUGHLIN, JR.: But you can keep them from working

MRS. COUGHLIN: Wait just a minute — well, hush. At least you've got your checkbook. We didn't have to go home.

MR. COUGHLIN, JR.: But you tell her —

MR. KENNEDY: Court cost (unaudible) 750 for me (unaudible) for appearance in court. (Unaudible) the court reporter just make it out —

MR. COUGHLIN, JR.: Kennedy, you have not submitted to us upon demand — you have not submitted a bill. When you submit a bill we will honor that bill. It is an unreasonable demand to just demand (unaudible)

MRS. COUGHLIN: Just give them the $750 and we will go ahead.

MR. COUGHLIN, JR.: We want her to know, though, that we consider it unreasonable demand at this point.

MR. KENNEDY: I will tell her it is unreasonable.

MR. COUGHLIN: No, we are not saying that to her. We can't say to her. You are saying it.

MR. COUGHLIN, JR.: That she says —

MRS. COUGHLIN: (Unaudible) that you are unreasonable.

MR. COUGHLIN, JR.: Everything that has been represented to us has been represented by you, Mr. Kennedy.

MR. KENNEDY: Do you want me to get her? I will be glad to.

MR. COUGHLIN, JR.: Okay. We are ready.

MR. KENNEDY: Well, do you want to wait on that check?

(UNAUDIBLE)

MR. KENNEDY: One of our original agreements was that

when I called on you for posting of advances for expenses you said you would do it.

MR. COUGHLIN, JR.: Yes, sir. But we want to know what those expenses are.

MR. KENNEDY: For the court reporter.

MR. COUGHLIN, JR.: But, sir, she hasn't worked $750.00 yet.

(UNAUDIBLE)

MR. COUGHLIN, JR.: Sir, I assure you — (unaudible) unreasonable demand. I want it to be so noted at this point in the trial that you are making an unreasonable demand without provocation. And that it is you who are making these demands, not the court recorder, who works for us. Because if she worked for you, Kennedy, you would be maintaining this suit.

MR. KENNEDY: All right. Do you want me to get her in here and you pay her direct?

MRS. COUGHLIN: No, sir.

MR. KENNEDY: That is Mrs. Coughlin?

MRS. COUGHLIN: Right.

MR. KENNEDY: You do not want me to get her in here and you pay her direct?

(UNAUDIBLE)

MR. COUGHLIN, JR.: Did you write out paid in full, Dad?

MR. KENNEDY: Don't put that on there. I won't accept it.

MRS. COUGHLIN: He can't accept it in his name and put paid in full.

MR. COUGHLIN, JR.: Sure he could. He's saying she is going to work the rest of the day for us.

MRS. COUGHLIN: No.

MR. COUGHLIN, JR.: Oh, he's not.

MRS. COUGHLIN: No.

MR. COUGHLIN, JR.: That is what I though ya'll was saying.

MRS. COUGHLIN: Well, no, I'm not going to put that.

MR. COUGHLIN, JR.: Well, I had rather put that. But just like I say — well, it's noted.

MRS. COUGHLIN: Well —

MR. COUGLIN, JR.: It is my contention, and everything, that he is asking for two days.

MRS. COUGHLIN: Well, I guess what we are paying for and

he's got some extra he says. I think he says he's got 300 and something extra.

MR. COUGHLIN, JR.: Well, he says the expenses he was asking for was for reporters.

MR. KENNEDY: That covers the expenses —

MRS. COUGHLIN: You said you had three hundred and something dollars of our money left.

MR. KENNEDY: About — right at — I think around two hundred forty something.

MRS. COUGHLIN: Okay.

MR. KENNEDY: Of course, you realize anything left over after expenses will be returned to you?

MRS. COUGHLIN: Right.

MR. KENNEDY: Okay.

MRS. COUGHLIN: Okay.

MR. COUGHLIN, JR.: At this time LET'S go to lunch.

This was at 10:15 —

MRS. COUGHLIN: Recess —

MR. COUGHLIN, JR.: — recess —

MRS. COUGHLIN: — in Judge Wright's Court —

MR. COUGHLIN, JR.: — in Juge Wright's Court —

MRS. COUGHLIN: — on August 18th —

MR. COUGHLIN, JR.: — on August 18th —

MRS. COUGHLIN: — 1978.

MR. COUGHLIN, JR.: — 1978.

(END OF TAPE)

CERTIFICATE

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, Carl D. Walls, a Court Reporter at Birmingham, Alabama, Notary Public for the State of Alabama at large, do hereby certify as follows:

THAT I transcribed a taped conversation furnished to me by Mrs. Bettye L. Coughlin and that the foregoing pages 2 through 10, both inclusive, contain a true transcript of audible portion of tape.

THAT I am neither of kin nor of counsel to any parties involved in this mater, nor in any manner interested in the results thereof;

This 22nd day of March, 1979.

Carl D. Walls
Court Reporter — Notary Public